IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

CRP.No. 946 of 2007()

AS.31/2004 of ADDL. DISTRICT & SESSIONS COURT, VADAKARA
OS.95/2003 of MUNSIFF COURT, QUILANDY

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REVN. PETITIONER: APPELLANT/1ST DEFENDANT:

N.BALAN, AGED 57 YEARS,
S/O.KUNHISANKARAN, THEKKUMURI LINIL,
KAHERY AMSOM, KURUMBAKKATTUSSERY DESOM,
PRATHEEKSHA HOUSE, KOZHIKODE TALUK,
KOZHIKODE DISTRICT.

BY ADV. SRI.K.M.FIROZ

RESPONDENTS: RESPONDENTS/PLAINTIFF:

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1. VALANCHERY V.REKHA, ALIAS LEKHA,
D/O.BALAN NAIR, AGED 25 YEARS,
OWN AFFAIRS, MELUR AMSOM & DESOM,
KOYILANDY TALUK, KOZHIKODE DISTRICT.

2. VALANCHERY V.BALAN NAIR,
S/O.LAKSHMI AMMA, AGED 62 YEARS,
AGRICULTURIST, MELUR AMSOM AND DESOM,
KOYILANDY TALUK, KOZHIKODE DISTRICT.

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.Krishnan, J.

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C.R.P.No.946 of 2007

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Dated this the 5th day of November, 2007.

ORDER

This revision petition is preferred against the order of the Additional District Judge, Vadakara in A.S No.31 of 2004. Suit is one for realisation of the amount due under a promissory note. Plaintiff was a minor and within three years time from the date of attainment of majority, he has moved the court for realisation of the amount.

2. Several contentions were raised by the first defendant including the plea of limitation and insufficiency of stamp. The courts below considered the question of limitation and held that the disability covered under Section 6 of the Limitation Act will apply and therefore the suit can be filed within three years time from the date of attainment of majority. The decisions of the courts below are correct on the point and therefore does not call for any interference.

3. So far as other contentions are concerned, it is submitted that the stamp was not crossed and promissory note is not sufficiently stamped. So far as the cancellation of the stamp is concerned, the court below on a finding of facts, found that there had been proper crossing of the stamp and therefore on that ground also, the defendants cannot attack the judgments of the courts below. So far as the insufficiency of the stamp is concerned, no materials are placed before the court below to show how it is sufficiently stamped. Now at this point of time, this Court will not be correct in interfering with unless there is illegality or perversity committed by the courts below in arriving at a decision. The Apex Court has remained the courts that even if a different view is possible, if there are concurrent findings of facts, this Court shall not substitute the view with the views of the courts below. Therefore, on a reading of the two judgments of the courts below, I do not find any ground to admit this revision. Learned counsel for the revision petitioner in fairness submitted that his client may be given some time for making payment. I feel that a reasonable time of six months from today can be granted for payment. The decree holder can execute the

decree if the amount is not paid within six months and the judgment of the Appellate court reducing the interest from 15% to 6% from the date of decree shall also stand confirmed.

Civil Revision Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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